

# FAYETTE LEGAL JOURNAL

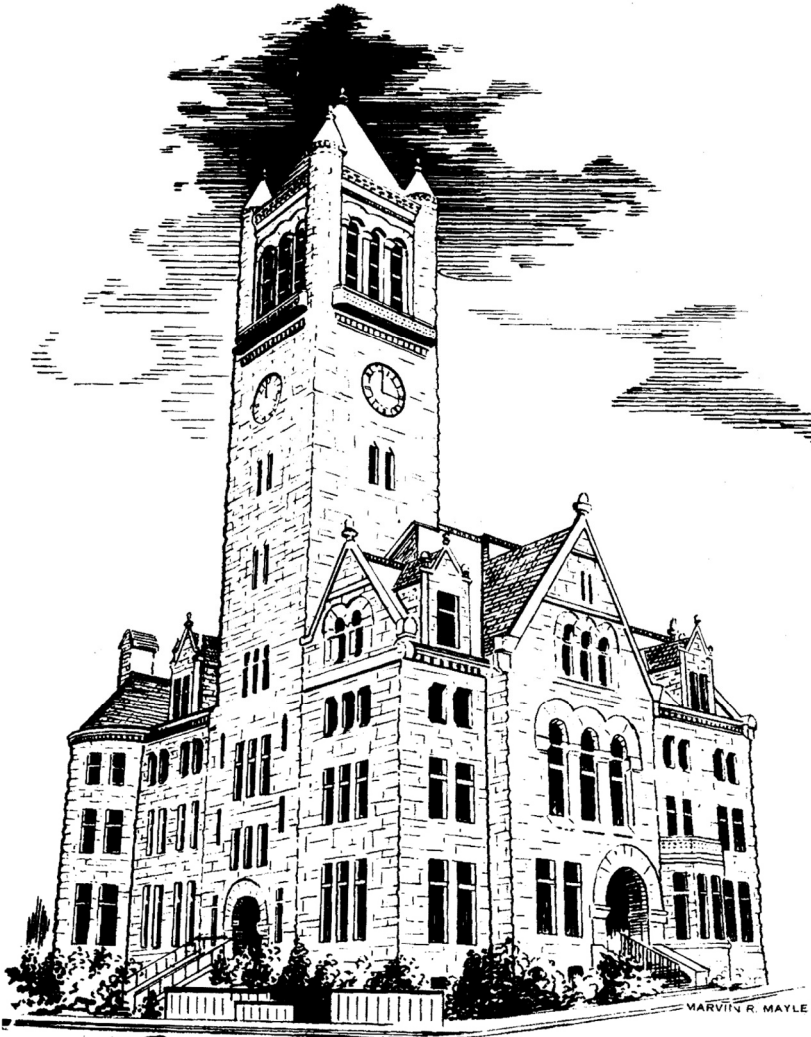
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## FAYETTE LEGAL JOURNAL

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*Attorney:* Webster & Webster

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c/o 749 North Church Street  
Mt. Pleasant, PA 15666  
*Attorney:* Paul Toohey

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Co-Administrator: Faith Sandra Riggin  
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54 South Washington Street  
Waynesburg, PA 15370  
*Attorney:* Amber N. Shipley

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315 Footedale Road  
Uniontown, PA 15401  
c/o Newcomer Law Offices  
4 North Beeson Boulevard  
Uniontown, PA 15401  
*Attorney:* Ewing D. Newcomer

**MICHAEL J. DAVIDSON, a/k/a MICHAEL JOE DAVIDSON**, late of Uniontown, Fayette County, PA (3)

*Executrix:* Josephine M. Davidson  
c/o Davis & Davis  
107 East Main Street  
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*Attorney:* James T. Davis

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107 East Main Street  
Uniontown, PA 15401  
*Attorney:* James T. Davis

**DORIS M. ERNEST**, late of Point Marion, Fayette County, PA (3)

*Executor:* Douglas Ernest  
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107 East Main Street  
Uniontown, PA 15401  
*Attorney:* Gary J. Frankhouser

**MARILYN E. KIRKPATRICK**, late of Jefferson Township, Fayette County, PA (3)

*Personal Representatives:* Sherry R. Askey and Teri L. Kirkpatrick  
c/o Dellarose Law Office, PLLC  
99 East Main Street, Suite 101  
Uniontown, PA 15401  
*Attorney:* Melinda Deal Dellarose

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*Co-Executors:* Jerry Robert Klink and Janis L. McGee  
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Wexford, PA 15090  
*Attorney:* Bradley Dornish

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51 East South Street  
Uniontown, PA 15401  
*Attorney:* Webster & Webster

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*Personal Representative:* Joseph P. Olexa  
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68 South Beeson Boulevard  
Uniontown, PA 15401  
*Attorney:* James Higinbotham

**HERBERT WAYNE REESE, a/k/a H. WAYNE REESE**, late of Georges Township, Fayette County, PA (3)

*Executrix:* Linda Lu Reese Kosal  
321 Rubles Mill Road  
Smithfield, PA 15478  
c/o Jackson Kelly, PLLC  
P.O. Box 619  
Morgantown, WV 26507-0619  
*Attorney:* Martha M. Hall

**WILMA G. REESE**, late of Georges Township, Fayette County, PA (3)

**WILMA G. REESE TRUST**, an existing revocable trust that became irrevocable upon the death of its settlor

*Personal Representative:*  
United Bank, Inc., Successor Trustee  
P.O. Box 393  
Charleston, WV 25322  
c/o Jackson Kelly, PLLC  
P.O. Box 619  
Morgantown, WV 26507-0619  
*Attorney:* Martha M. Hall

**JANET L. SNOWDON, a/k/a JANET LEE SNOWDON**, late of Uniontown, Fayette County, PA (3)

*Co-Administrators:* Jamie Lee Snowdon-Hibbs and Jacqueline Kay Miller  
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Uniontown, PA 15401  
*Attorney:* Jack R. Heneks, Jr.

**C. MERWIN SUMEY, a/k/a CYLDE MERWIN SUMEY, a/k/a CYLDE M. SUMEY, a/k/a CLYDE SUMEY, a/k/a MERWIN SUMEY**, late of North Union Township, Fayette County, PA (3)

*Executors:* Jeffrey Scott SumeY and Lisa Jo Sproul  
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96 East Main Street  
Uniontown, PA 15401  
*Attorney:* Simon B. John

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*Administrator:* Michael Moody  
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## Second Publication

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*Administratrix:* Belinda L. Smith  
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107 East Main Street  
Uniontown, PA 15401  
*Attorney:* Gary J. Frankhouser

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*Executrix:* Dorothy J. Faith  
439 Johnson Lane  
Connellsville, PA 15425  
c/o 32 West Third Street  
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*Attorney:* Peter P. Cherellia

**JOHN E. KAVULICK, a/k/a JOHN EDWARD KAVULICK**, late of Perry Township, Fayette County, PA (2)

*Administrator:* John Everett Kavulick  
1593 Banning Road  
Dawson, PA 15428  
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111 Fallowfield Avenue  
Charleroi, PA 15022  
*Attorney:* David B. Bassi

**JOHN PRITTS**, late of Saltlick Township, Fayette County, PA (2)

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c/o Snyder & Snyder Law, PLLC  
17 North Diamond Street  
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*Attorney:* Marvin Snyder

**KENNETH LEE SHAW, SR., a/k/a  
KENNETH L. SHAW, SR.**, late of  
Connellsville Township, Fayette County, PA (2)  
*Executor:* Kenneth L. Shaw, Jr.  
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Connellsville, PA 15425  
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P.O. Box 342  
Scottsdale, PA 15683  
*Attorney:* James S. Lederach

**JOSEPH E. SMITHLEY, a/k/a JOSEPH  
EDWARD SMITLEY**, late of Dunbar  
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*Personal Representative:*  
Angela Jo Smitley  
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Connellsville, PA 15425  
*Attorney:* Timothy J. Witt

**WILLIAM SUFFERN, a/k/a WILLIAM  
EDWARD SUFFERN**, late of Connellsville,  
Fayette County, PA (2)  
*Administrators:* Linda R. McCabe and  
Kathleen A. Nicholson  
519 Tukosh Street  
Tarrs, PA 15688  
c/o 749 North Church Street  
Mount Pleasant, PA 15666  
*Attorney:* Paul Toohey

## First Publication

**RICHARD ALLEN CRAMER, SR.**, late of  
Grindstone, Fayette County, PA (1)  
*Personal Representative:* Betty K. Cramer  
c/o Dellarose Law Office, PLLC  
99 East Main Street, Suite 101  
Uniontown, PA 15401  
*Attorney:* Melinda Deal Dellarose

**BETTY LOU FRANKENBERY**, late of  
Uniontown, Fayette County, PA (1)  
*Executrix:* Marlene Joyce Burke  
c/o 51 East South Street  
Uniontown, PA 15401  
*Attorney:* Webster & Webster

**ANTOINETTE MAE GUERRIERI, a/k/a  
ANTOINETTE M. GUERRIERI, a/k/a  
ANTOINETTE GUERRIERI**, late of Restone  
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*Personal Representative:*  
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107 East Main Street  
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*Attorney:* James T. Davis

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SARAH MARTIN, a/k/a LORETTA  
MARTIN**, late of Dunbar Township, Fayette  
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*Personal Representative:* Nancy Hoover  
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*Attorney:* Timothy J. Witt

**JAMES N. MCKEVITT**, late of Washington  
Township, Fayette County, PA (1)  
*Executor:* Brian Sean McKeVitt  
181 Guthrie Lane  
Somerset, PA 15501  
c/o 10 Spruce Lane  
Charleroi, PA 15022  
*Attorney:* Dennis Paluso

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*Personal Representative:* Daniel L. Moyer  
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720 Vanderbilt Road  
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*Attorney:* Robert A. Gordon

**JULIA SIBLE, a/k/a JULIA A. SIBLE**, late of  
Uniontown, Fayette County, PA (1)  
*Executrix:* Richelle Aronhalt  
6000 Boxer Drive  
Bethel Park, PA 15102  
c/o Fiffik Law Group, PC  
661 Andersen Drive, Suite 315  
Foster Plaza 7  
Pittsburgh, PA 15220  
*Attorney:* Matthew Bole

**GWENDOLYN TAKACS, a/k/a  
GWENDOLYN O. TAKACS**, late of  
Uniontown, Fayette County, PA (1)  
*Executor:* Shannon Aronhalt

6000 Boxer Drive  
Bethel Park, PA 15102  
c/o Fiffik Law Group, PC  
661 Andersen Drive, Suite 315  
Foster Plaza 7  
Pittsburgh, PA 15220  
*Attorney: Matthew Bole*

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**EMERYETTA MARIE TIMMS**, late of West  
Brownsville, Washington County, PA (1)  
*Administrator: Colette M. Brady*  
113 Alicia Heights Road  
Brownsville, PA 15417  
c/o P.O. Box 488  
California, PA 15419  
*Attorney: Lisa J. Buday*

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**JOHN T. VISOCKY, a/k/a JOHN THOMAS  
VISOCKY**, late of Connellsville, Fayette  
County, PA (1)  
*Personal Representative:*  
Daniel Thomas Visocky  
c/o Watson Mundorff, LLP  
720 Vanderbilt Road  
Connellsville, PA 15425  
*Attorney: Timothy J. Witt*

## LEGAL NOTICES

IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA  
CIVIL DIVISION  
NO. 62 of 2023 G.D.  
JUDGE STEVE P. LESKINEN

GLORIA JACOBY f/k/a GLORIA FAY  
Executrix of the Estate of Virginia Upton  
a/k/a Virginia I. Upton, deceased,  
Plaintiff

vs.

HARVEY M. UPTON and ELIZABETH B.  
UPTON their heirs, successors, and assigns,  
generally,  
Defendants

**TO: HARVEY M. UPTON and  
ELIZABETH B. UPTON , their heirs,  
successors, and assigns, generally**

You are hereby notified that Gloria Jacoby f/k/a Gloria Fay Executrix of Estate of Virginia Upton a/k/a Virginia I. Upton, deceased, has filed a complaint at the above number and term in the above-mentioned court in an action to Quiet Title wherein it is alleged that Virginia Upton a/k/a Virginia I. Upton her heirs, successors and assigns is the owner of property situate at 148 Slaughterhouse Lane, Dunbar, Pennsylvania 15431, said premises having Fayette County Tax Map Identification Number 09-24-0003 and said premises being more fully described at First Tract in deed recorded in the Office of the Recorder of Deeds of Fayette County, Pennsylvania in Deed Book Volume 1128 page 197.

Said complaint sets forth that Plaintiff is the owner in fee simple of the above-described premises. A complaint was filed for the purpose of barring all your right, title and interest or claim in and to all or a portion of said premises.

### **NOTICE**

You are hereby notified that you have been sued in court. If you wish to defend against the claim set forth in the complaint and in the within advertisement, you must take action within twenty (20) days after the last advertisement of this notice by entering a written appearance personally or by attorney and filing if writing with the court your defenses or objections to the claim set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice

or any money claimed in the complaint, or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

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James E. Higinbotham, Jr., counsel for Gloria Jacoby f/k/a Glory Fay Executrix of Estate of Virginia Upton a/k/a Virginia I. Upton deceased  
68 South Beeson Boulevard  
Uniontown, PA 15401  
Date: January 25, 2023

IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA  
NO. 1963 OF 2022, G.D.

ROBERT FIELDS,  
PLAINTIFF,  
vs.

MERCEDES R. OPPMAN, her heirs and assigns  
CHAD G. McKENZIE, his heirs and assigns,  
and HENRY P. OPPMAN III, his heirs and assigns,  
DEFENDANTS.

NOTICE TO DEFEND

TO: MERCEDES R OPPMAN, her heirs and assigns,  
CHAD G. McKENZIE, his heirs and assigns,  
and HENRY P. OPPMAN, his heirs and assigns:

You have been named as Defendants in an action to Quiet Title filed by the above Plaintiff against you wherein the Plaintiff alleges that they have acquired all of the interest in the following parcel of property unless otherwise of record in previous deeds:

ALL that certain piece, parcel or lot of land situate in the City of Connellsville, County of Fayette and State of Pennsylvania, bounded and described as follows, to-wit;

BEGINNING at intersection of the East side of Nassau Alley and the South side of Franklin Avenue; thence along line of Franklin Avenue a distance of 47.37 feet to a point; thence through lot of which this is a part South 21 degrees 10 minutes 30 seconds West, a distance of 130.15 feet to Alcazar Alley; thence along line of Alcazar Alley a distance of 63.56 feet to corner with the North side of Alcazar Alley and Nassau Alley; thence along line of Nassau Alley a distance of 131.15 feet to the place of beginning, containing 0.1657 of an acre, and being a part of Lot No. 19 in Block 18 of the East Park Addition to Connellsville, the plot whereof is recorded in the Recorder's Office of Fayette County, Pennsylvania, in Plan Book 7, page 74.

TAX ID NO.: 05-11-0157

You are hereby notified to plead to the complaint in this case, of which the above is a brief summary, within twenty (20) days from this date. If you wish to defend, you must enter a written appearance personally or by an attorney and file your defenses or objections in writing with the Court. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiffs. You may lose money or property or other rights important to you.

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JOHN F. WARMAN

518 Madison Drive

Smithfield, PA 15478

724-322-6529

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**JUDICIAL OPINION**

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA  
CRIMINAL DIVISION

COMMONWEALTH OF	:
PENNSYLVANIA,	:
	:
vs.	:
	:
SAMANTHA MALENOSKY,	: No. 1790 of 2021
Defendant.	: Honorable Linda R. Cordaro

**OPINION**

Linda R. Cordaro, J.

April 5, 2022

**SUMMARY**

Currently before this Court is the Defendant's Omnibus Pretrial Motion {1} for a writ of habeas corpus. This Court heard testimony and argument on the matter on March 23, 2022, and the preliminary hearing transcripts and exhibits as presented and admitted at the preliminary hearing were then admitted into evidence. For the following reasons, Defendant's Motion with respect to the above-captioned matter is denied.

**BACKGROUND**

On May 7, 2021, just before noon, Loveina Peplow began receiving messages via Facebook social media from an account bearing the name "Samantha Malenosky." Ms. Peplow did not know the Defendant at the time, but Ms. Peplow's relationship partner, Charles Wright, disclosed to her that he had some familiarity with the Defendant.

According to Ms. Peplow, she continued to receive messages through the day, including photographs of her own house (taken from the front during daylight hours) and statements indicating the sender was outside the house and that the sender would kill Ms. Peplow if she came outside. Ms. Peplow went to work around 3:00 p.m., and when she returned to her house after midnight, she saw the Defendant sitting in a vehicle outside 122 Collins Avenue.

Ms. Peplow's mother, Kristina Hayes, was inside the house at the time, and Ms. Peplow told her about the messages she had been receiving. Ms. Hayes attempted to leave the house while the Defendant was still outside, and the Defendant began honking her vehicle horn. Ms. Peplow went outside to confront the Defendant and alleges that the Defendant then attempted to hit both her and her mother with the vehicle. At that point, a state police vehicle drove down the road, and the Defendant floored the gas and drove after it, still sounding her horn. The state officer returned to the house to investigate

{1} The Motion addressed both Case No. 1789 of 2021 and Case No. 1790 of 2021.

what was happening, ultimately informing Ms. Peplow and Ms. Hayes that although the Defendant could be asked to leave, she could not be forced to leave. The Defendant subsequently returned and parked at the Rite Aid on Connellsville Street, within sight of 122 Collins Avenue.

Ms. Peplow contacted the police to report the Defendant was sitting in the Rite Aid parking lot, sending her threatening messages. Officer Zachary Vernail and Patrolman Curtis Bukovan responded and found the Defendant in a vehicle at the reported location. They observed a revolver on the Defendant's left hip and asked her to exit the vehicle. They then secured and unloaded the firearm. The Defendant told officers she also had a 9mm firearm in the vehicle, which officers also secured. The Defendant also told the officers she was watching 122 Collins Avenue because a wanted person lived there, and she was going to make a "citizen's arrest." During the encounter, the police confirmed the Defendant's identity and obtained her mobile phone number and ultimately allowed her to leave the scene.

Officers then went to 122 Collins Avenue and spoke with Ms. Peplow and Ms. Hayes, and Ms. Peplow showed officers the messages she had received.

## DISCUSSION

The Defendant is charged in the above-captioned matter with Terroristic Threats - 18 Pa.C.S.A. §2706(A)(1); Stalking - 18 Pa.C.S.A. §2709.1(A)(2); and Harassment - 18 Pa.C.S.A. §2709(A)(4).

Count 1 of the Motion is a writ of habeas corpus. {2} Defendant argues that the Facebook messages supporting the charge of terroristic threats were not properly authenticated as having been sent by the Defendant, and also that the Commonwealth has not sufficiently proven that the Defendant's actions constituted the crime of stalking.

Messages sent and received via Facebook social media are digital evidence, which includes "emails, text messages, social media postings, and images." Comment to Pa.RE. 901(b). "[I]n order to satisfy the requirement of authenticating or identifying an item of evidence, the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is." Pa.RE. 901(a). "Authentication [of digital media] is a prerequisite to admissibility [however] authentication of electronic communications ... requires more than mere confirmation that the number or address belonged to a particular person. Circumstantial evidence, which tends to corroborate the identity of the sender, is required." *Com. v. Koch*, 39 A.3d 996, 1005 (Pa. Super. Ct. 2011). Proper authentication requires a showing of evidence that tends to substantiate that it was the Defendant that authored the messages, and such evidence could include: the testimony of persons who sent or received the messages or contextual clues in the messages themselves that tend to reveal the sender's identity. *Id.* A mere showing that a social media account displays a particular individual's name or has demographic or historical information matching to that individual is not sufficient. *Com. v. Mangel*, 181

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{2} Count 2, a petition to compel additional discovery, was stricken by consent of both parties at the March 23, 2022 hearing.

A.3d 1154, 1164 (Pa. Super. Ct. 2018). See also *Com. v. Talley*, 236 A.3d 42 (Pa. Super. Ct. 2020) (holding there was sufficient evidence to establish authenticity of text message screenshots depicted on victim's mobile phone when, among other evidence, the victim testified the screenshots accurately reflected messages she received and the messages referred to specific circumstances known only by the victim and defendant).

Here, the Commonwealth presented both direct and circumstantial evidence tending to show that the Facebook messages received by Ms. Peplow indeed were sent by the Defendant.

First, Ms. Peplow did not personally know the Defendant when she began receiving the Facebook messages. Prelim. Hr'g Tr. at 3. Among the messages Ms. Peplow received were photographs of the front of her house as well as the statement "Lol im [sic] out side come on baby girl get some" from a Facebook account bearing the Defendant's name and photo. Ex. 1. When Ms. Peplow came home from work after midnight, the Defendant was "sitting outside in the driveway." Prelim. Hr'g Tr. at 4. Ms. Peplow recognized that individual from the photo linked to the Facebook account, and the content of the messages sent from that account stated that the sender was outside Ms. Peplow's house. Both the direct evidence and the circumstantial evidence support the conclusion that the Defendant was the sender of the messages.

Second, Ms. Peplow received a Facebook message that "Chuckie" (Charles Wright) had warrants and was a wanted person. Ex. 1. Officer Zachary Vernail testified that when he spoke with the Defendant in the Rite Aid parking lot, she told him she was "watching 122 Collins," and that a wanted person lived there. The Defendant's own statements corroborate the content of the messages Ms. Peplow received.

Finally, Ms. Peplow received messages such as "I warned you don't cross me I don't like games and I put 2g on your head," "I will still draw on you conne [sic] to the street I'll kill you bro." Ex. 1. The Defendant was indeed sitting in front of Ms. Peplow's house in "the street," and Ms. Peplow testified that the Defendant attempted to hit her with a vehicle. Prelim. Hr'g Tr. at 4. The threatening nature of the messages sent from the Facebook account coincides with the Defendant's threatening actions.

The Facebook messages were sufficiently authenticated as having been sent by the Defendant through both direct and circumstantial evidence.

Furthermore, the evidence shows at least a prima facie case of stalking, which is committed when a person either "engages in a course of conduct ... under circumstances which demonstrate either an intent ... to cause substantial emotional distress to such other person" or "demonstrate or communicate either an intent ... to cause substantial emotional distress to such other person." 18 Pa.C.S.A. §2709.1. The Defendant sent Ms. Peplow photographs of her own house with statements such as "Tm outside"; she communicated that she would kill Ms. Peplow if she came outside; she stated that "2g" had been placed on Ms. Peplow's head; she sat outside Ms. Peplow's house after midnight; and she continued to surveil the house from where its occupants could see her. These actions demonstrate the Defendant's intent to cause substantial emotional distress.

## CONCLUSION

The Commonwealth offered both direct and circumstantial evidence to sufficiently authenticate the Facebook messages as having been sent by the Defendant. The Commonwealth also provided sufficient evidence for a prima facie case of the crime of stalking. The motion for a writ of habeas is denied.

## ORDER

AND NOW, this 5th day of April 2022, inconsideration of Defendant's Omnibus Pretrial Motion, after a hearing on the matter and a review of the preliminary hearing transcript and exhibits, it is ORDERED and DIRECTED that Count 1 of the Motion is DENIED. Count 2 of the Motion is stricken as agreed by the parties at the March 23, 2022 hearing on the Motion.

The Commonwealth shall list this case for trial.

BY THE COURT:  
Linda R. Cordaro, Judge

ATTEST:  
Clerk of Courts



## LUNCH & LEARN SERIES

The Fayette County Bar Association's next presentation in its Lunch & Learn Series will be:

- Date: **Wednesday, February 15th from 12:00 p.m. to 1:30 p.m.**
- Location: **Courtroom No. 3 of the Fayette County Courthouse**
- Discussion topics: **The Nuts & Bolts & Rewards of Dependency Court**
- Presenters: **Honorable Linda R. Cordaro and Ewing D. Newcomer, Esquire**

### CLE Credit

1.5 hours of Substantive CLE credit for the program. The fees are as follows:

Members of the FCBA

- \$5 fee for attendance without CLE Credit
- \$15 fee for attendance with CLE Credit

Attorneys admitted to practice in Pennsylvania after January 1, 2017

- \$5 fee for attendance with CLE Credit

Non-members of the FCBA

- \$15 fee for attendance without CLE Credit
- \$40 fee for attendance with CLE Credit

**\*\* All fees to be paid at the door \*\***  
A light lunch will be provided.

### RSVP

If interested in attending, please call Cindy at the Bar office at 724-437-7994 or email to [cindy@fcbar.org](mailto:cindy@fcbar.org) on or before Monday, February 13th.

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